Ministry of Justice

Public Guardian and Trustee

2012-13
ANNUAL REPORT

Government of Saskatchewan

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This annual report is also available in electronic form from the Ministry's website at **www.justice.gov.sk.ca/annual-reports**.

Letters of Transmittal

Her Honour the Honourable Vaughn Solomon Schofield,
Lieutenant Governor of Saskatchewan

May it Please Your Honour:

I have the pleasure to transmit to your Honour the Annual Report of the Public Guardian and Trustee of Saskatchewan for the year ending March 31, 2013.

I am pleased to report that the financial statements for the above fiscal year have now been finalized and audited.

The staff of the Public Guardian and Trustee are to be commended for their hard work and commitment to their clients.

Respectfully submitted,

Gordon S. Wyant, Q.C.
Minister of Justice and Attorney General

The Honourable Gordon S. Wyant, Q.C.
Minister of Justice and Attorney General

Dear Sir:

I have the pleasure to submit for your consideration the Annual Report of the Public Guardian and Trustee for the year ending March 31, 2013.

The Public Guardian and Trustee has made major progress in a number of areas. I refer you to the goals and the planned actions in this report. I thank the staff of the Office for their hard work and their efforts in accomplishing many of the goals for the year.

Respectfully submitted,

Ronald J. Kruzeniski, Q.C.
Public Guardian & Trustee

Mandate

Vision

A society where the interests of vulnerable people are protected.

Mandate

The mandate of the Office of the Public Guardian and Trustee (PGT) is to:

- protect the property rights of children under the age of 18;
- manage the financial or personal affairs of adults who are incapable of managing those affairs, monitor other guardians, and investigate allegations of financial abuse;
- administer the estates of deceased persons and missing persons; and
- hold and administer unclaimed property.

Guiding Principles

- Clients are entitled to a continuum of services from the PGT;
- Clients of the PGT should be able to obtain service in the simplest way possible;
- The PGT, although easily accessible, should be the appointment of last resort;
- Every client is entitled to quality and timely service;
- The PGT will protect the assets of each client and attempt to maximize the rate of return; and
- To the extent possible, every service of the PGT should be charged for on a cost recovery basis.

Goals and Objectives:

Goal 1: Greater security and safety for the affairs of vulnerable people

- Objective 1: Intervene to secure the interests of vulnerable adults, children and deceased persons where permitted or directed by law.
- Objective 2: Where possible, protect the estates of vulnerable adults and children from financial abuse and enhance the protection of their personal affairs where appropriate and permitted by law.

Goal 2: Quality management of clients' assets and protection of their interests

- Objective 1: Identify, secure and manage clients' property and assets in a timely, prudent manner and maximize the rate of return.
- Objective 2: Maintain accurate records of clients' property, assets, incomes and payments.
- Objective 3: Make decisions regarding disbursement of clients' property in a timely and prudent manner.
- Objective 4: Manage costs to clients and to the PGT effectively.

Goal 3: Knowledge and expertise around policy issues and law reform initiatives that affect clients' interests or the protection of vulnerable people

- Objective 1: Work with others in government to develop common approaches to legal and policy issues of concern to the PGT.
- Objective 2: Work with other Public Guardians and Trustees to develop common approaches to legal and policy issues of concern to the PGT.
- Objective 3: Develop a research basis for understanding the legal and policy issues of concern to the PGT.
- Objective 4: Promote public knowledge of the abuse of vulnerable people and develop potential tools for their protection.

Goal 4: A high quality of work life, where all members of the PGT develop and use their skills, take leadership and share in decision-making as part of a team

- Objective 1: Encourage leadership through staff skills development.
- Objective 2: Recognize the achievements and accomplishments of employees.
- Objective 3: Support a balance between work and family life.

Workplace Values

The PGT and its staff believe in high quality services provided in a knowledgeable, courteous and professional manner. This service:

- contributes to the public's confidence in and understanding of the PGT;
- is responsive and sensitive to people's needs;
- is open, honest and candid while respecting legitimate rights to privacy; and
- is accessible.

The PGT and its staff value a high quality of work life where all members:

- share in decision making;
- demonstrate leadership;
- respect and communicate with each other;
- take personal initiative;
- have pride in their work;
- develop individual skills and abilities;
- develop team building skills; and
- work in a safe, healthy and adequately resourced work environment.

The PGT and its staff are accountable to clients and to the taxpayers of Saskatchewan for the wise, innovative and effective use of resources.

The PGT and its staff believe in working together as a team through negotiations and partnership with others for mutually acceptable outcomes.

The PGT and its staff respect and value diversity and equality among clients and employees by recognizing, encouraging and understanding the individuality of each person.

What the PGT Does

For children under the age of 18

In administering the affairs of children under the age of 18, the PGT:

- holds funds for children under the age of 18;
- monitors the actions of executors and trustees managing property for children;
- manages children's interests in estates, lotteries, insurance policies and permanent impairment benefits;
- approves settlements for personal injury claims and fatal accident claims and manages the proceeds of those claims;
- approves legal fees for settlements of personal injury claims or fatal accident claims;
- consents to the sale, transfer or lease of real estate where children have an interest;
- acts as property guardian for permanent wards of the province; and
- applies for and manages registered disability savings plans (RDSPs) for children.

For persons who are not capable of managing their own affairs

The PGT can be appointed as guardian by means of:

- A Certificate of Incompetence under *The Mentally Disordered Persons Act*:
  - A medical doctor issues a Certificate of Finding of Incompetence.
  - A Chief Psychiatrist issues a Certificate of Incompetence.
  - The PGT issues an Acknowledgement to act as property guardian.
  - The PGT has up to one year to issue an Acknowledgement after the date of the Certificate of Incompetence.
- A court order under *The Adult Guardianship and Co-decision-making Act*:
  - Under *The Adult Guardianship and Co-decision-making Act*, the court can appoint the PGT as personal or property guardian, if no one else wants to act or a family is in dispute.

When the PGT acts as property guardian, it is responsible for managing all the financial affairs of the person and does some or all of the following:

- Ascertains the assets and debts of the person
- Determines the monthly income and expenses of the person
- Manages any personal property or real estate for the person
- Places funds of the person in the Common Fund
- Makes any claims to recover funds on behalf of the person and, if necessary, commences a legal action
- Defends or settles claims against the person
- Arranges for the preparation of income tax returns

The PGT may also act as temporary property guardian if appointed by the court.

The PGT may investigate an allegation that a vulnerable person is being subjected to financial abuse.

The PGT may require a financial institution to suspend the withdrawal or payment of funds from a person's account for up to 30 days, where the PGT has reasonable grounds to believe that the person is a vulnerable adult and the PGT has received an allegation that the person is being subjected to financial abuse.

Where an adult is mentally incapable, the PGT may require the attorney under a Power of Attorney to provide an accounting.

Where an attorney under a Power of Attorney refuses to provide an accounting or provides an incomplete accounting, the PGT may apply to court for an order requiring an accounting.

Where an attorney under a Power of Attorney abuses his or her authority, the PGT may apply to court for an order removing the attorney.

Where a property guardian improperly manages the affairs of an adult, the PGT many apply to court for removal of the guardian.

For deceased persons

Usually the family will administer the estate of a deceased person, but sometimes there is no one to act as administrator or the family is in dispute.

In these instances, the PGT can act as Official Administrator.

If family members are disputing the validity of a will, the PGT can be appointed as administrator pending the outcome of the litigation.

When the PGT is appointed Administrator, it is responsible for dealing with all the financial affairs of the deceased and does some or all of the following:

- Ascertains all the assets and liabilities of the deceased
- Determines the beneficiaries of the deceased estate
- Pays all income taxes owed by the deceased if there are sufficient funds
- Pays all debts of the deceased if there are sufficient funds
- Distributes the estate to the beneficiaries according to the will or *The Intestate Succession Act*

For missing persons

The PGT can act as property guardian under *The Missing Persons and Presumption of Death Act, 2009*, (which replaced *The Absentee Act*). While it is acting as property guardian, it may:

- determine the property of the missing person;
- hold, manage or sell the property of the missing person;
- search for the missing person;
- advertise in an attempt to locate the missing person; and
- hire an heir locator to attempt to locate the missing person.

The PGT will act until the person is found, is determined to be dead or the court issues an order presuming the person to be dead.

For the Common Fund

Pursuant to section 47 of *The Public Guardian and Trustee Act*, all funds received by the PGT are to be placed in the Common Fund. Section 47 allows the PGT to invest a portion of those funds. An Investment Policy dated June 2011, governs this investment activity. The complete policy can be found at **www.justice.gov.sk.ca/The-Common-Fund**.

An investment manager makes the investment decisions. The investment manager is required to comply with the Investment Policy. Regular compliance reports are provided and any deviations from policy are reported to the PGT.

An investment consultant, Aon Hewitt Investment Consulting, monitors the actions and performance of the investment manager. The investment consultant meets with the Investment Advisory Committee on a periodic basis to review the performance of the Common Fund and more particularly, the investment manager.

The custodian of the Common Fund is RBC Dexia Investor Services. The custodian is responsible for safekeeping of the assets, income collection, settlement of investment transactions, and accounting for the investment transactions and related holdings.

Common Fund Benchmark and Asset Component Ranges

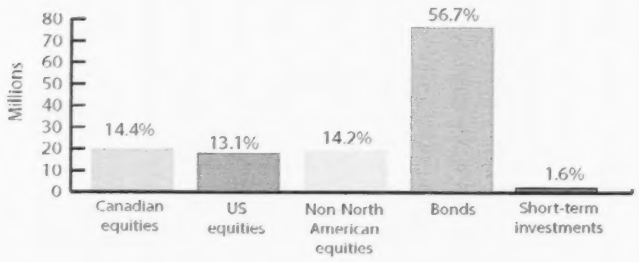
The Investment Policy provides that investments can be made in different asset classes, which are as follows:

	Minimum %	Benchmark %	Maximum %
Equities			
Canadian equities	5.0	14.0	25.0
U.S. equities	5.0	13.0	25.0
Non-North American equities	5.0	13.0	25.0
Total Foreign equities	10.0	26.0	40.0
Total equities	**20.0**	**40.0**	**50.0**
Total Fixed Income			
Bonds	40.0	59.0	70.0
Short-term investments	0.0	1.0	30.0
Total Fund		**100.0**	

Each asset class has a minimum and a maximum amount that can be invested in that class. Each asset class also has a benchmark percentage. The performance of the investment manager is monitored against market rates of return in each asset class. Total fund performance is measured against a benchmark portfolio return, which is calculated by applying market rates of return to the benchmark portfolio weights.

The Common Fund is invested in a manner that reflects the highest standard of prudence in investment management and the high duty of care required to fulfill the responsibilities of the PGT. Accordingly, the Common Fund is invested in a prudently diversified portfolio of high quality securities, with an overall conservative orientation. The Common Fund objective is to minimize the risk of a loss of capital, while providing current income sufficient to meet ongoing cash needs and to provide potential for capital appreciation over time to meet the needs of our clients with higher risk tolerances and longer investment time horizons.

Amounts and percentages invested in each asset class as of March 31, 2013



	Amount (000s)	Percentage
Canadian equities	$19,424	14.4%
US equities	$17,618	13.1%
Non-North American equities	$19,176	14.2%
Bonds	$76,275	56.7%
Short-term investments	$2,083	1.6%
Total invested	**$134,576**	**100.0%**

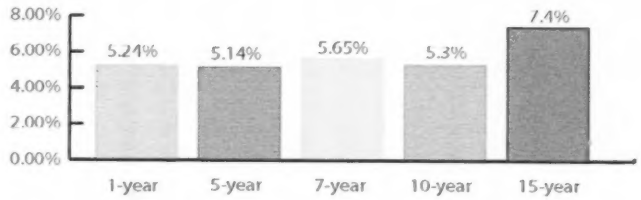
The *Public Guardian and Trustee Regulations* require that earnings be distributed quarterly. Earnings are distributed in accordance with sections 4 to 7 of the Regulations. These Regulations can be found under "Relevant Legislation" at **www.justice.gov.sk.ca/pgt**.

Distribution of earnings takes place after March 31, June 30, September 30 and December 31 of each year. Each distribution involves interest, dividends and capital gains or losses.

As of March 31, 2013 the PGT held assets in trust for clients in the amount of approximately $178.2 million.

The annualized average rate of return realized for clients with money in the Common Fund for the 12 months ended March 31, 2013 was 5.24 per cent.

The average annualized rates of return (%) as at March 31st over the past number of years



	1-year	5-year	7-year	10-year	15-year
Percentage	5.24%	5.14%	5.65%	5.3%	7.4%

2012-13 Information

As of March 31, 2013, the PGT provided services to:

Children whose property rights the PGT may monitor	1,452
Children for whom the PGT holds funds	1,915
Children who are permanent wards for whom the PGT is property guardian	927
Adults where the PGT acts as property guardian	1,024
Adults where the PGT reviews property guardians' accountings	395
Adults where the PGT carries out investigations	8
Adults where the PGT acts as litigation guardian	3
Adults where the PGT monitors property guardians	37
Adults where the PGT has notice of interest in an estate	22
Adults where the PGT acts as Power of Attorney	4
Estates where the PGT has letters of administration	273
Estates where the PGT acts as administrator ad litem	2
Estates 24 months	37
Estates where the value is less than $25,000	144
Estates where the PGT monitors activities	13
Estates where the PGT has notice of tax enforcement	48
Estates where the PGT has unclaimed funds	9
Estates where the PGT acts as trustee	8
Total	**6,321**

2012-13 Planned Actions

- Propose a framework of legislative change to be worked on over the next five years including amendments to:
  - Section 55 of *The Trustee Act* to include property guardians of children;
  - Section 52 of *The Child and Family Services Act* to allow the PGT to act as property guardian for children in long-term care.
  - *The Dependants' Relief Act* to expand the definition of estate assets;
  - *The Health Care Directives and Substitute Health Care Decisions makers Act* to allow decisions on residence to be made by family or, as a last resort, by the PGT; and
  - *The Administration of Estates Act*, particularly a section allowing the removal of an executor.
- Re-develop *The Adult Guardianship and Co-decision-making Act* forms so that they are dynamically fillable online.
- Propose amendments to the *Public Guardian and Trustee Regulations*.
- Organize and hold six Lean events and support a continuous improvement process in the PGT.
- Request funding to refresh and upgrade the existing computer system.
- Finish the process of converting the PGT to a fully electronic records management system.

2012-13 Activities and Results

- The sections in *The Public Trustee Amendment Act, 2011* regarding personal guardianship were proclaimed effective February 15, 2013.
- The office's computer system (Guardian) was upgraded with version 7.4. The office continues to work towards replacing the Guardian system.
- A proposed framework for legislative change was prepared and submitted. Work is currently being done on a consultation paper regarding *The Powers of Attorney Act*, *The Health Care Directives and Substitute Health Care Decision Makers Act*, *The Mentally Disordered Persons Act* and *The Public Guardian and Trustee Act*.
- The Adult Guardianship forms were revamped and are now on the web site.
- Six Lean events were held, regarding release of deceased estates, income tax preparation in estates, opening a dependent adult file, recording of assets, internal review and processing of expenses.
- The office has completed converting 99 per cent of its files into electronic formats. It has also started the process of scanning documents received before September 1, 2011, and made good progress.

2013-14 Planned Actions

- Promote amendments to *The Powers of Attorney Act, The Health Care Directives and Substitute Health Care Decision Makers Act, The Mentally Disordered Persons Act, The Public Guardian and Trustee Act and The Child and Family Service Act.*
- Work towards a new computer system to replace the current Guardian system.
- Propose the engagement of a lawyer to represent children in the child protection system.
- Request authority to allow the Public Guardian and Trustee to set up RDSPs for children in long term care.
- Hold a Lean event to review and improve the mail opening to electronic filing of documents process.
- Review the office's system of internal controls to protect the assets and funds of clients.
- Request support from the Productivity Fund to develop a business case for the modernization of Guardian.
- Review the PGT fees charged on income and expenses.
- Provide a service of reviewing draft applications for guardianship.
- Upgrade the office to Windows 7.
- Complete the scanning of documents received by September 1, 2013.

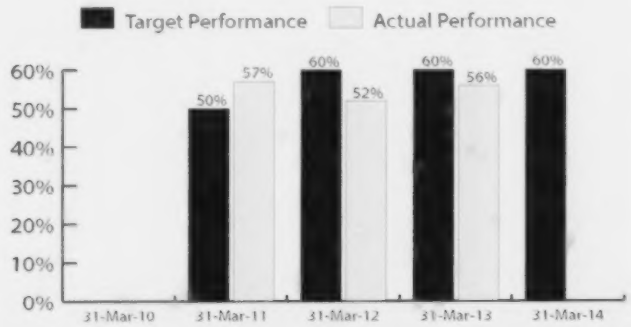
Performance Measures

The PGT has developed a series of performance measures to assist in determining how well it is carrying out its obligations. The performance measures will assist in determining efficiency and workload pressures.

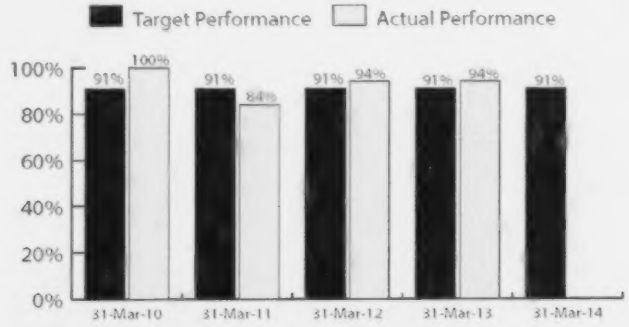
Deceased Estates Unit

Files that are closed within three years of being opened

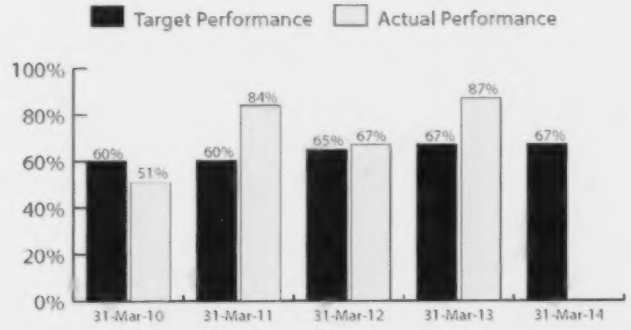
*** Measurement began in 2011, no data available for years prior**



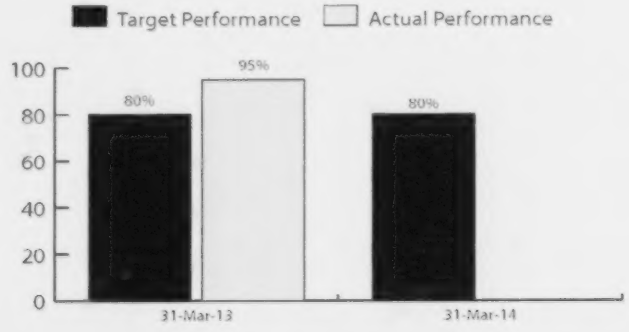
Beneficiaries who received average, above average or excellent service from the Estate Unit



Estates where Letters of Administration were issued within six months

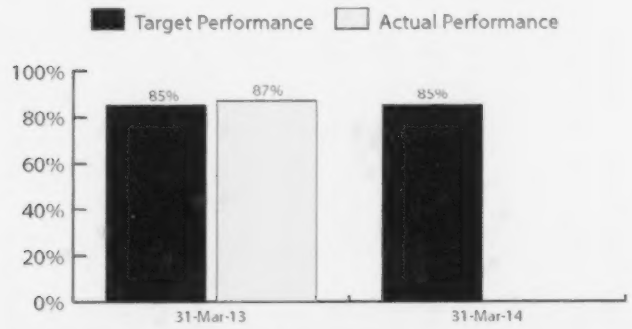


Files where the tax return to date of death is completed within nine months of appointment

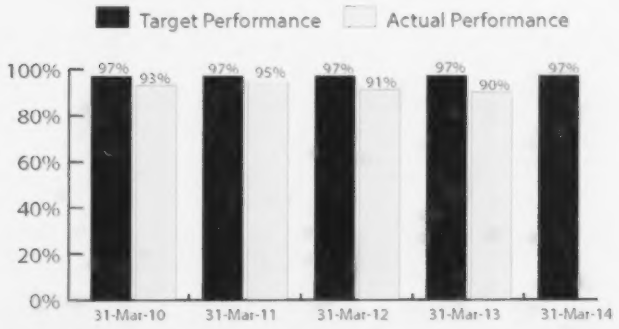


Children's Unit

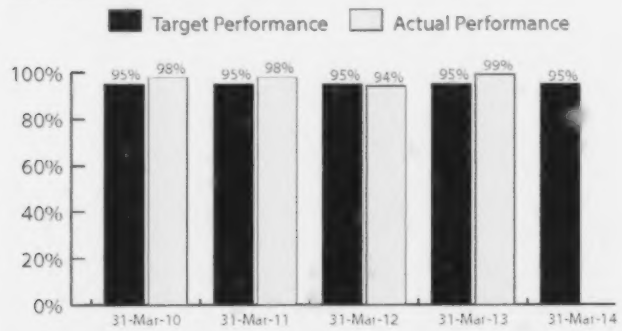
Files where a child's account is released within five days of receipt of a signed release



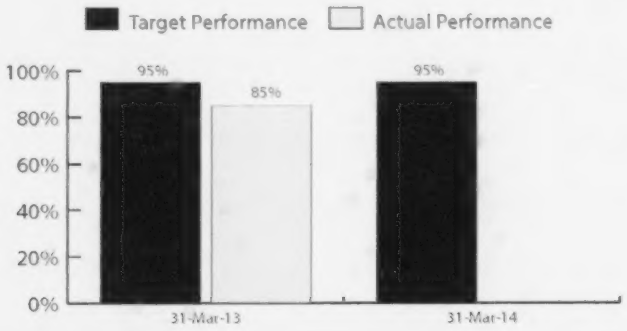
Files where payments are made within five days of receipt of the request



Clients and parents who received average, above average or excellent service from the Children's Unit

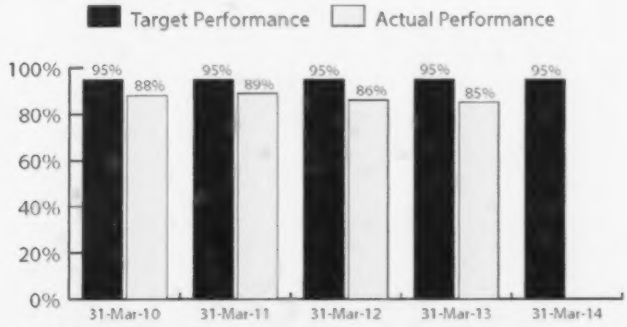


Files where a Certificate of No Infants is issued with five days of receipt of all required information

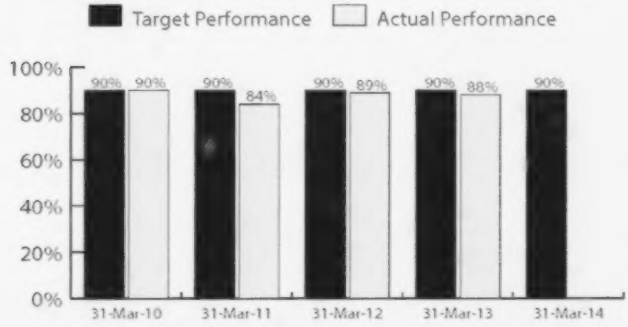


Adult's Unit

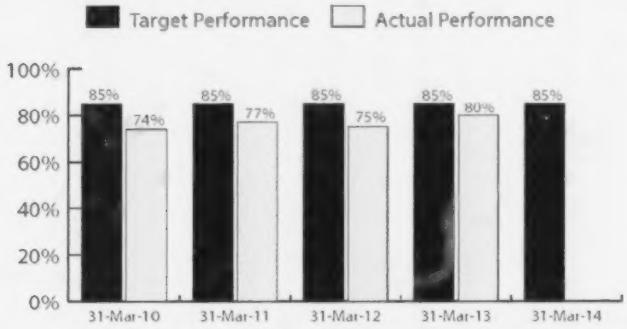
Clients or personal representatives who received average, above average or excellent service from the Adult's Unit



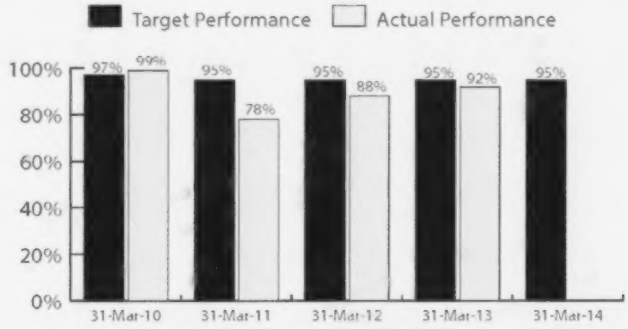
Files where an Acknowledgement is signed within 90 days from the date the Certificate of Incompetence is received



Files where the request for an investigation or inventory is made within 30 days from the date that an Acknowledgement is signed



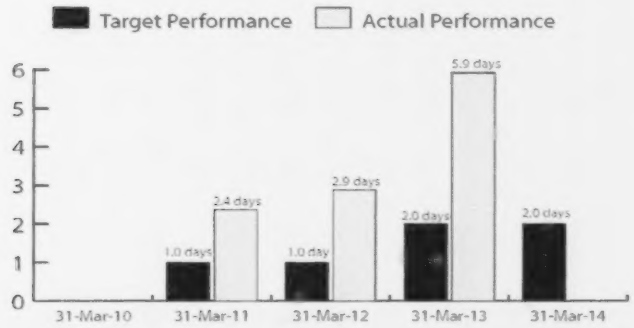
Annual Accountings of property guardians that have been reviewed within 10 days of receipt



Accounting and Administration Unit

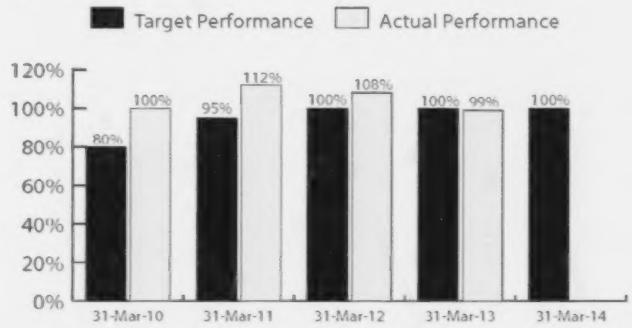
Average time to process an invoice

*** Measurement began in 2011, no data available for prior years**

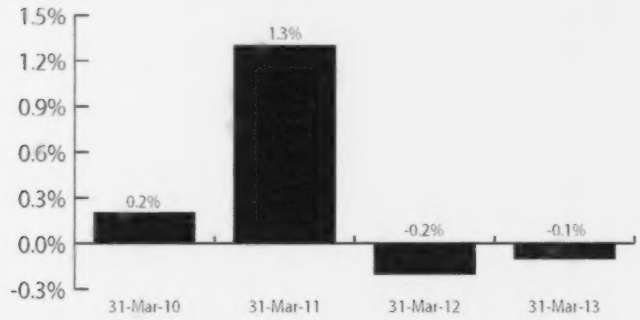


Percentage of legal fees invoiced as compared to $250,000

*** In 2013 the Public Guardian and Trustee invoiced $248,2000 in legal fees to its clients**



Difference between the four-year average rate of return on client assets invested by the PGT and the benchmark identified by the Investment Policy



Important Issues

Aging Population

Saskatchewan's population is aging. According to the 2006 Census, just over 15 per cent of Saskatchewan's citizens were 65 or older. The 65 and older population is expected to continue to increase as the baby boomer generation matures, potentially to almost one in five Saskatchewan people by 2021. Meanwhile, the number of those over 80 (the citizens with the greatest need for guardianship and estate management) has increased dramatically. According to the 2006 Census, about one in 20 people in Saskatchewan were aged 80 or above, higher than the Canadian average of one in 27 and much higher than in Alberta, where only one in 36 residents were 80 or older in 2006.

It is difficult to predict, but our aging population will probably result in the PGT being appointed as property guardian for more and more senior citizens. We know that as people age, they are more likely to have a disability. Statistics Canada's 2006 *Participation and Activity Limitation Survey* found that 48 per cent of those aged 65 or older in Saskatchewan (60 per cent of those aged 75 or older) have some form of disability, as opposed to 16 per cent of the population of the province as a whole. In addition, we know that the prevalence of the types of disability associated with adult guardianship, such as memory, learning and speech loss, increase with age.

Therefore, there may be more need for adult guardianship in the coming years. As well, seniors may also live longer under guardianship.

Abuse of Senior Citizens

Human service providers, such as doctors, lawyers, police officers, nurses, psychologists, and social workers would probably be able to tell you of at least one case of physical, mental or financial abuse of a senior citizen. Physical and sexual abuses are obviously very serious, but financial abuse is also harmful to a senior citizen. What information we have from cross-Canada surveys and research elsewhere suggests that as many as one in ten non-institutionalized, Canadian seniors is the victim of some form of abuse in any given year, while perhaps one in twenty-five is the victim of financial abuse.

Financial abuse results in lost savings. It can mean that a nest egg set aside for retirement is gone. Once it occurs, it is difficult to get the lost property or money back. The PGT has published a booklet, *Minimizing the Risk of Financial Harm to Vulnerable Adults*, setting out steps to reduce the risk of financial harm. This booklet can be obtained upon request or viewed at **www.justice.gov.sk.ca/pgtpubs**.

Accountability

The PGT is required to account publicly to the Minister and the Legislative Assembly, as evidenced by this annual report.

The PGT is required to have an audit performed by the Provincial Auditor each year. This audit reviews financial information and involves a review of systems and controls. The PGT is subject to all financial controls of the Comptroller's Office. In the coming year, the PGT plans to upgrade its internal review process to an internal audit process which will further protect clients. Citizens have the right to contact the Ombudsman who has the authority to do a review of a file. Finally, the PGT must account to a client, his or her property guardian, executor or administrator.

These accountability mechanisms are in place to ensure that the PGT operates in a lawful and responsible way.

Privacy and Confidentiality Policy

The PGT has been in existence since April 1, 1984. The PGT and its predecessors, the Administrator of Estates and the Official Guardian have always taken the issue of privacy and confidentiality very seriously.

In administering the financial affairs of an adult, child or deceased estate, the PGT will always err on the side of disclosing less information rather than more to family or third parties, so that the client's privacy is protected.

The *Freedom of Information and Protection of Privacy Act* reinforces this principle in section 29.

The *Health Information Protection Act* further enforces this principle in subsection 5(2). In keeping with this long-standing position of confidentiality, the PGT has developed with respect to release of information.

Adults

On a day-to-day basis, the staff of the PGT must disclose information in order to manage the financial affairs of the PGT's clients. The PGT will release only the information that is necessary and in the best interest of the client. The reverse is also true, if the releasing information is not in the best interest of the client, the PGT will not release it.

If a neighbor or friend of the client calls asking for information, there is no best interest for the client, and the PGT will refuse to provide that information. If a son or daughter calls, the PGT takes the same approach. If there is no advantage to releasing theinformation, the PGT will not release that information. Sonsor daughters who call may expect the PGT to release information to them because of their relationship to the client.If the client were competent, he or she would decide whether to give any information to a son or daughter. Some parents give information to their children; some parents do not A son or daughter has no more right to a parent's financial information than does a stranger.

A person who wishes for more control and information may apply to the court to assume this role. The PGT will provide all information to the person who is appointed as property guardian by the court.

In many instances, when the PGT is property guardian for a client, it is because some financial abuse has taken place prior to the PGT's involvement. In many instances, a client's child is the abuser. That child may have tried to benefit or has benefited from being Power of Attorney, property guardian or unofficial manager of the parent's affairs. Sometimes there is a major family dispute occurring. The PGT may be placed between disputing members of the family.

The PGT, when faced with an information request, does not want to give information to an abuser, take sides between family members, or prejudice the rights of the client in case there is a claim for restitution. These concerns reinforce the importance of a policy of confidentiality and protection of the client's privacy. For these reasons, the PGT has taken the side of protecting a person's privacy and enforcing a strict confidentiality policy.

It should be noted that an adult, for whom we are property guardian, is always entitled to his or her financial information.

Children

The PGT is committed to maintaining the confidentiality of children's records and information. This is an important part of protecting the rights and interests of our clients, and one reason that we ask for written requests for withdrawing funds or for inquiries about the amount of money in the child's account. Account balances are not provided over the telephone unless we are certain that the person requesting the information is the child's legal guardian. We will mail a statement upon request.

Deceased Estates

When the PGT acts as Official Administrator, it will provide information only as is required to complete administration. If it is dealing with creditors, it will provide only sufficient information to settle debts. It will provide all information to a beneficiary when the beneficiary requests that information. It will not provide information to a relative who is not a beneficiary.

Risk Management

The PGT continues to identify and manage risk.

Market fluctuations could have an adverse impact on the PGT's Common Fund. The PGT attempts to minimize this impact through:

- a balanced investment policy which is reviewed annually;
- an investment manager that makes all investment decisions;
- an investment consultant who advises on the performance of the investment manager;
- a custodian who holds investments in the Common Fund, receives income and completes transactions;
- an investment advisory committee that reviews the performance of the investment manager and changes to the investment policy; and
- a policy that provides for the distribution of capital gains over a two-year period.

Other internal risk factors include negligent administration of a client's affairs, breach of the fiduciary obligations, fraud, errors in recording income or expenses, failure to request a benefit and loss of assets.

These are the risks faced by any organization that holds funds and manages assets. Every PGT in Canada also has these risks. The greatest risk is to ignore these risks. The preferred approach is to recognize them as risks, take steps to minimize them, and do everything in one's power to ensure that such events do not occur. To minimize these risks to the greatest extent possible, the PGT:

- provides training and reinforcement of policy at monthly meetings;
- ensures that criminal record checks (CRCs) are done for new employees and that current CRCs are on file for all employees;
- ensures that staff attend relevant conferences and workshops;
- ensures client files are reviewed by legal counsel;
- maintains a policy manual and a regular updating process;
- conducts an internal review on a monthly basis. In the coming year this process will be upgraded to an internal audit process;
- undergoes periodic reviews by the Ministry of Justice's internal auditor;
- establishes a series of tight controls surrounding the issuing of cheques and the processing of expenses;
- provides for greater physical security in the PGT;
- prescribes procedures for the opening of mail and the handling of cash and other assets;
- prescribes procedures for the recording of assets on the PGT's computer system;
- maintains and updates controls around the recording of income and expenses;
- creates rules regarding the taking and recording of inventory (in the coming year the PGT will implement a policy requiring two PGT representatives being present at inventory taking);
- secures personal property stored at the PGT;
- insures assets;
- places access restrictions on the computer system, to allow only authorized staff to perform certain functions; and
- has a service provider verification process.

As stated above, the PGT believes the prudent approach is to recognize potential risks and take as many steps as possible to minimize those risks.

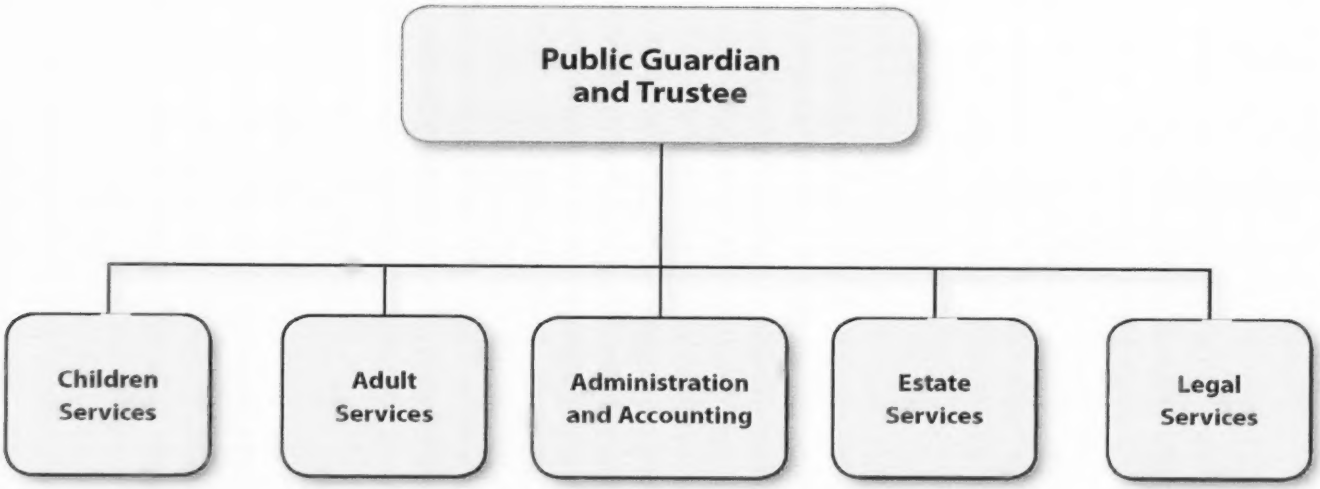
Available Publications

The PGT has published the following booklets:

- *Accountings*
- *Administering a Deceased Estate*
- *Administering An Adult's Financial Affairs*
- *Adult Guardianship in Saskatchewan Application Manual*
- *Approaches to Delaying the Need for Guardianship*
- *Children's Trust Funds*
- *Dependants' Relief Applications*
- *Duties and Powers of a Property Attorney in Saskatchewan*
- *Duties and Powers of a Property Guardian in Saskatchewan*
- *Duties and Powers of a Trustee*
- *Health Care Directives*
- *How to Apply for Guardianship*
- *If You Are Considering Administering a Deceased Estate*
- *Minimizing the Risk of Financial Abuse When You Appoint an Attorney*
- *Minimizing the Risk of Financial Harm to Vulnerable Adults*
- *Missing Persons and Property Guardianship*
- *Planning Ahead*
- *Public Guardian and Trustee of Saskatchewan*
- *RDSPs and Adults with Mental Disabilities*
- *Substitute Decision Making – A Framework*
- *Temporary Guardianship*
- *Wills and Children with Mental Disabilities*

These booklets can be obtained upon request or viewed or downloaded from our website at **www.justice.gov.sk.ca/pgtpubs**.

Management Structure



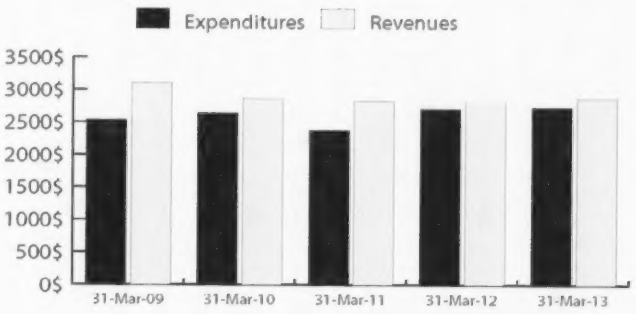
Fees

The PGT has a principle of cost recovery in the provision of its services. Where a full cost recovery is not achievable, the objective is partial cost recovery. There are certain situations where clients cannot pay the full or partial fee. The PGT has the discretion to reduce those fees in appropriate circumstances.

As a result of charging fees, the revenue and expenditures of the PGT have been as is shown in the figure to the right.

Under *The Public Guardian and Trustee Act and Regulations* and *The Administration of Estates Act and Regulations*, the PGT charges the fees for services set out in the table below.

Expenditures and revenues (000s) as a result of charging fees



	Expenditures	Revenues
31-March-09	$2,537	$3,114
31-March-10	$2,640	$2,866
31-March-11	$2,384	$2,827
31-March-12	$2,709	$2,834
31 March 13	$2,742	$2,880

Fees for services charged by the Public Guardian and Trustee

Children	• 1/12th of 1% per month, of the amount held for the child
Adults	• 5% or 7% of income • 1/12th of 1% per month, of the value of the assets managed for adults
Estates	A percentage of the value of the estate: • 7% on first $50,000 • 5% on next $50,000 • 4% on excess over $100,000 with a minimum fee of $1,500. This fee would apply if the Public Guardian and Trustee acts as administrator pending litigation or acts as administrator to defend a claim.
Co-decision-makers or temporary guardians	• Where the Public Guardian and Trustee acts as a co-decision-maker or a temporary guardian, the fee is $250 per month
Court appearances	• If the Public Guardian and Trustee appears in court, it will ask the court to award it costs on a solicitor/client basis
Litigation Guardians	• Where the Public Guardian and Trustee acts as a litigation guardian for a child or an adult, the fee is $500 plus disbursements and legal fees
Legal fees	• An hourly rate of $150
Real estate	• Where a real estate agent is involved, 1% of the sale price with a minimum of $100 and a maximum of $500 • Where no real estate agent is involved, 3% of the sale price with a minimum fee of $100 and a maximum of $500
Income tax	Dependent Adults: • $60 for a simple return • $100 where there is rental or investment income
Tax enforcement	• Serving a notice of Tax Enforcement on the Office - $5.00
Other services	• Consent to the Sale of Real Estate - varies, depending on the circumstances and/or the value of the property • Certificate of No Infants - $30 • Approval of Settlement for an Infant - varies, depending on the amount of the settlement

Legislation

The PGT has powers, duties or responsibilities under the following Acts and Regulations:

- *The Administration of Estates Act*
- *The Adult Guardianship and Co-decision-making Act*
- *The Automobile Accident Insurance Act*
- *The Child and Family Services Act*
- *The Children's Law Act, 1997*
- *The Closing-Out Sales Act*
- *The Condominium Property Act*
- *The Department of Social Services Act*
- *The Dependants' Relief Act, 1996*
- *The Enforcement of Canadian Judgments Act, 2002*
- *The Escheats Act*
- *The Family Maintenance Act, 1997*
- *The Fatal Accidents Act*
- *The Health Care Directives and Substitute Health Care Decision Makers Act*
- *The Intestate Succession Act, 1996*
- *The Land Titles Act, 2000*
- *The Limitations Act*
- *The Mentally Disordered Persons Act*
- *The Missing Persons and Presumption of Death Act*
- *The Municipalities Act*
- *The Powers of Attorney Act, 2002*
- *The Provincial Land Act*
- *The Public Guardian and Trustee Act*
- *The Queen's Bench Act, 1998*
- *The Saskatchewan Insurance Act*
- *The Subdivisions Act*
- *The Survival of Actions Act*
- *The Survivorship Act, 1993*
- *The Tax Enforcement Act*
- *The Teachers Superannuation and Disability Benefits Act*
- *The Trustee Act, 2009*
- *The Wills Act, 1996*

These Acts and Regulations can be viewed on the PGT's website at **www.justice.gov.sk.ca/pgt** or the Queen's Printer website at **www.qp.gov.sk.ca/**.

Acknowledgment

The PGT acknowledges and thanks the many staff members who have continued to provide courteous, effective and efficient service to clients. Without their expertise and commitment, the PGT would not have been able to achieve our many goals for the 2012-13 fiscal year.

Management's Responsibility for Financial Statements

Management is responsible for the integrity of the financial information reported by the PGT. Fulfilling the responsibility requires the preparation and presentation of financial statements and other financial information in accordance with Canadian public sector accounting standards.

The accounting systems used by the PGT include an appropriate system of internal controls to provide reasonable assurance that:

- transactions are authorized;
- clients' assets are properly recorded and financial reports are properly monitored to ensure reliable information is provided for preparation of financial statements and other information; and
- the accounts are properly kept and financial reports are properly monitored to ensure that reliable information is provided for preparation of financial statements and other financial information.

The Provincial Auditor of Saskatchewan has audited the PGT financial statements in accordance with Canadian generally accepted auditing standards and the report follows.

Contact Information

Public Guardian and Trustee Office
100 - 1871 Smith St.
REGINA SK S4P 4W4

Telephone: (306) 787-5424
Toll Free: 1-877-787-5424
Fax: (306) 787-5065

Email: pgt@gov.sk.ca

Web site: **www.justice.gov.sk.ca/pgt**

Office Hours:
Monday through Friday, 8 a.m. to 5 p.m.
(Closed for the noon hour and holidays)
(Preferred method of communication is email)

Financial Statements

The financial statements on the following pages provide an account of the financial activities of the PGT for the year ended March 31, 2013.

PUBLIC GUARDIAN AND TRUSTEE OF SASKATCHEWAN
ESTATES AND TRUSTS UNDER ADMINISTRATION

FINANCIAL STATEMENTS

FOR THE YEAR ENDED March 31, 2013

PROVINCIAL AUDITOR
of Saskatchewan

INDEPENDENT AUDITOR'S REPORT

To: The Members of the Legislative Assembly of Saskatchewan

I have audited the accompanying financial statements of the Public Guardian and Trustee of Saskatchewan Estates and Trusts under Administration, which comprise the statement of financial position as at March 31, 2013 and the statements of operations, and changes in net assets for the year then ended, and a summary of significant accounting policies and other explanatory information.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian public sector accounting standards for Treasury Board's approval, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

In my opinion, the financial statements present fairly, in all material respects, the financial position of the Public Guardian and Trustee of Saskatchewan Estates and Trusts under Administration as at March 31, 2013, and the results of its operations, and changes in its net assets for the year then ended in accordance with Canadian public sector accounting standards.

Regina, Saskatchewan
July 19, 2013

Bonnie Lysyk, MBA, CA
Provincial Auditor

1500 Chateau Tower - 1920 Broad Street - Regina, Saskatchewan S4P 3V2
t 306.787.6398 f 306.787.6383 e info@auditor.sk.ca
w *www.auditor.sk.ca*

Statement 1

PUBLIC GUARDIAN AND TRUSTEE OF SASKATCHEWAN
ESTATES AND TRUSTS UNDER ADMINISTRATION
STATEMENT OF FINANCIAL POSITION
AS AT MARCH 31

(in 000'S)

	2013	2012
Assets		
Cash and Due from General Revenue Fund (Note 5)	$ 4,853	$ 7,057
Interest and dividends receivable	694	655
Common fund investments (Schedule 1 & Note 4)	134,576	123,592
Client trust assets (Schedule 2)	38,297	33,916
	178,420	165,220
Liabilities		
Accounts payable (Note 7)	2,690	3,313
Mortgages and loans payable	893	478
	3,583	3,791
Net Assets (Statement 3)	$ 174,837	$ 161,429

(See accompanying notes to the financial statements)

Statement 2

PUBLIC GUARDIAN AND TRUSTEE OF SASKATCHEWAN
ESTATES AND TRUSTS UNDER ADMINISTRATION
STATEMENT OF OPERATIONS
FOR THE YEAR ENDED MARCH 31

(in 000'S)

	2013	2012
Revenue		
Pensions, benefits, and settlements	$ 34,329	$ 33,123
Investment income	4,515	5,465
	38,844	38,588
Expenses		
Client care and maintenance	19,669	19,667
Administration fees (Note 6)	2,949	2,924
Management fees	297	312
	22,915	22,903
Operating surplus	15,929	15,685
Net realized gains on assets sold	2,507	(4,272)
Change in unrealized gains	6,025	7,952
Net earnings available for distribution	$ 24,461	$ 19,365

(See accompanying notes to the financial statements)

PUBLIC GUARDIAN AND TRUSTEE OF SASKATCHEWAN
ESTATES AND TRUSTS UNDER ADMINISTRATION
STATEMENT OF CHANGES IN NET ASSETS
FOR THE YEAR ENDED MARCH 31

(in 000'S)

	2013	2012
Net earnings available for distribution (Statement 2)	$ 24,461	$ 19,365
Client assets acquired	2,623	2,261
Cash distributions to clients, beneficiairies and heirs	(13,676)	(15,811)
Increase in net assets	13,408	5,815
Net assets, beginning of year	161,429	155,614
Net assets, End of Year - Statement 1	$ 174,837	$ 161,429

(See accompanying notes to the financial statements)

PUBLIC GUARDIAN AND TRUSTEE OF SASKATCHEWAN
ESTATES AND TRUSTS UNDER ADMINISTRATION
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED March 31, 2013

1. Legislative Authority and Purpose

Effective April 1, 1984 the Office of the Public Guardian and Trustee of Saskatchewan was established pursuant to *The Public Trustee Act* and continued under *The Public Guardian and Trustee Act*. *The Public Trustee Act* was repealed and *The Public Guardian and Trustee Act* was proclaimed effective May 17, 2002.

Section 3(1) of *The Public Guardian and Trustee Act* states:

> 3(1) The Public Trustee is continued as a corporation sole under the name of the Public Guardian and Trustee of Saskatchewan.

Section 3(3) of *The Public Guardian and Trustee Act* states:

> 3(3) The public guardian and trustee is the successor in office to:
>
> (a) the Official Guardian appointed pursuant to *The Infants Act* ; and
> (b) the Administrator of Estates appointed pursuant to *The Administration of Estates of Mentally Disordered Persons Act*.

Effective November 12, 1992, the Public Trustee became the official administrator for each judicial centre pursuant to *The Queen's Bench Act* . (Now *The Administration of Estates Act*)

Effective August 13, 2002, the Public Guardian and Trustee became responsible for holding property for persons whose whereabouts is unknown.

The mandate of the Office of the Public Guardian and Trustee is to:

(a) protect property rights of children under the age of eighteen;
(b) administer the property and finances of adults who are incapable of managing their financial affairs, monitor other property guardians and investigate allegations of financial abuse;
(c) administer the estates of deceased persons;
(d) administer the estates of missing person, and
(e) hold and administer unclaimed property.

2. Scope of the Financial Statements

These financial statements reflect the assets and liabilities of estates and trusts under the administration of the Public Guardian and Trustee. In addition, these financial statements reflect the annual changes in those assets and liabilities including:

a) revenue earned on behalf of clients;
b) income received on behalf of clients;
c) new client account additions;
d) released client withdrawals;
e) payments made on behalf of clients; and
f) administration fees payable to the Public Guardian and Trustee.

The net assets held in trust is available for distribution to the beneficiaries or clients. The operating costs of the Office of the Public Guardian and Trustee are included in the appropriation of the Ministry of Justice.

3. Significant Accounting Policies

These financial statements are prepared in accordance with Canadian public sector accounting standards. These financial statements do not present a Statement of Remeasurement Gains and Losses or a Statement of Cash Flows as this information is readily apparent from the other statements. The following accounting policies are considered to be significant.

(i) Common Fund Investments

Common fund investments, primarily bonds, debentures and shares, are stated at market value. Market value is determined with reference to closing year-end sale prices from recognized security dealers. In the absence of recorded sales, market value is determined by reference to closing year-end bid and ask prices.

Short-term investments are stated at cost, which approximates market value.

(ii) Common Fund Income Recognition

Income earned on common fund investments is recorded using the accrual basis of accounting with amounts earned in the fiscal year but not received prior to the year-end reflected as interest receivable.

(iii) Common Fund Distribution

Common fund investments generate interest, dividends, realized and unrealized capital gains (losses) income. Pursuant to section 5, 6 and 7 of *The Public Guardian and Trustee Regulations*, interest, dividends and gains (losses) income earned on the common fund investments are to be calculated and distributed to client trust accounts after the end of each quarter. Section 6 and 7 outline how interest and dividends shall be calculated. Section 7 allows the Public Guardian and Trustee to set the amount of capital gains (losses) to be distributed.

As the investment accounts are stated at market value, the undistributed interest, dividends and capital gains (losses) for the quarter ended March 31 are included in the financial statements as part of the investment value.

The undistributed common fund equity at March 31, 2013 is $9,554,000 (2012 – $7,500,000). These interest, dividends and capital gains (losses) amounts are distributed to the client equity accounts in future years.

(iv) Client Trust Assets

Client Trust Assets consist of accounts receivable, commodities, investments, personal property, insurance and real estate. Client trust securities, primarily term deposits, bonds and RRSP accounts are initially stated at market value at the date the Public Guardian and Trustee assumes control of the securities. For financial statement purposes, these securities are adjusted to the market value annually.

Other client trust assets are stated at the following values:

(a) **Commodities** are stated at market value, which is determined annually with reference to the estimated final delivery price for the particular commodity.

(b) **Real estate**, including real estate holdings for infants where the Public Guardian and Trustee is appointed property guardian, are initially recorded at appraised value at the date the Public Guardian and Trustee assumes control of the asset or at cost if the real estate is purchased on behalf of clients by the Public Guardian and Trustee. Real estate is carried at fair value in the statement of financial position as determined by an appraisal or where an appraisal is not available or is not current, as determined from the most recent Saskatchewan Assessment Management Agency property assessments.

(c) **Miscellaneous Personal Property** is stated at amounts determined from information available to the Public Guardian and Trustee at the date the Public Guardian and Trustee assumes control of the assets. Subsequent adjustments are made if additional valuation information is received. If no valuation is available, these assets are recorded at a nominal value of $1.

(d) **Life Insurance Policies** that carry cash surrender values are stated at the cash surrender value as determined with reference to the most recent valuation information available prior to March 31. Policies that do not carry cash surrender values are stated at a nominal value of $1.

(e) **Pension Plans and Annuity Contracts** are stated at residual value as determined with reference to the most recent evaluation information available prior to March 31 of each year. Pension plans and annuity contracts with no residual value are stated at a nominal value of $1.

(v) Use of Estimates

Preparation of financial statements in accordance with Canadian public sector accounting standards applicable for governments requires management to make estimates and assumptions in determining the reported amounts for assets and liabilities. Actual results could differ from management's best estimates, as additional information becomes available.

(vi) Financial Instruments

The Public Guardian and Trustee's financial instruments consist of Receivables, Cash and Due from the General Fund, Investments, Accounts Payable and Mortgage and Loans Payable.

Investments are recorded at fair value. Changes in fair value and gains and losses as a result of the asset being derecognized due to disposal or impairment are recognized in the Statement of Operations.

Cash and Due from the General Fund are recorded at fair value. Fair value is determined as cost plus accrued income, which approximates fair market value.

Receivable, Accounts Payable and Mortgages and Loan Payable are measured at amortized cost. Due to their short-term nature, the amortized cost of these instruments approximates their fair value.

4. Common Fund Investments

The Public Guardian and Trustee Act provides as follows:

47(1) The Public Guardian and Trustee shall:

(a) place money received by the Public Guardian and Trustee pursuant to this Act, any other Act or court order in a common fund; and

(b) subject to the approval of the Investment Board, invest in the name of the Public Guardian and Trustee that part of the common fund that in the Public Guardian and Trustee's opinion is not immediately required for persons for whom the Public Guardian and Trustee holds funds.

Common Fund Investments are invested through a single "common" fund to ensure consistency of return among clients. The investment objectives of the common fund are to achieve at least market returns with prudent risk diversification, with the potential for enhanced returns through active investment management for a majority of the portfolio. The Public Guardian and Trustee recognizes that there are diverse time horizons for its clients and that capital preservation is of primary concern. The employed investment objectives include a multiple asset, total return approach which values all types of investment income equally, a moderate income requirement to supplement other liquidity sources, a requirement for stability and maximization of return, and a degree of inflation protection and capital appreciation.

The Public Guardian and Trustee recognizes that, by their nature, investments carry with them certain risks. The investment policy employed by the Public Guardian and Trustee is designed to mitigate these risks as much as possible by placing restrictions on the overall content and quality of the permitted investments. The following describes the risks associated with the investment portfolio, managed through an investment manager, by the Public Guardian and Trustee.

Price Risk

Price risk refers to the potential that the value of investments will fluctuate as a result of foreign currency, interest rate and general market changes.

The value of the common fund investments will fluctuate with changes in foreign currency, interest rate and general market changes. To mitigate these risks the Public Guardian and Trustee works with an investment manager that actively manages asset class allocations through a balanced fund approach. The employed investment policy limits foreign currency exposure by permitting a maximum of 40% foreign investment with a stated benchmark of 26% foreign investment. The policy also limits market risk by permitting a maximum of 50% equity investment, including foreign equities with a benchmark of 40% equity investment.

The Public Guardian and Trustee manages interest rate risk by limiting the quantity and quality of interest rate sensitive investments to a maximum of 100% of the portfolio with a benchmark of 59% fixed income securities. Market risk is managed by taking a conservative prudent approach to investment.

Credit and Liquidity Risk

Credit and liquidity risk arises from the potential for an investee to fail or for an issuer to default on its obligations to the common fund. The Public Guardian and Trustee mitigates this risk by limiting the quantity and quality of the permitted investments to high quality, highly rated equity investments and highly rated fixed income securities.

5. Due from the General Revenue Fund

The Public Guardian and Trustee's operating and fees bank accounts totaling $4,820,000 (2012 - $7,023,000) are included in the Consolidated Offset Bank Concentration arrangement for the Government of Saskatchewan.

Interest earned on the balance attributed to the Public Guardian and Trustee is calculated and paid quarterly into the Public Guardian and Trustee's operating account using the Government's thirty day borrowing rate and the Public Guardian and Trustee's average daily bank account balance.

The Government's average thirty day borrowing rate for the year-ended March 31, 2013 is 1.09% (2012 - 1.06%).

6. Administration Fees

Pursuant to the provisions of *The Public Guardian and Trustee Regulations* and *The Administration of Estate Regulations,* the Public Guardian and Trustee may charge a fee for services performed in the management of client accounts. Such fees charged are payable to the General Revenue Fund of the Province of Saskatchewan.

7. Accounts Payable

Accounts payable represent encumbrances of client assets that are payable to independent third parties. These client obligations are settled, as client resources become available. In some cases, a client's liabilities exceed the stated value of their assets. These items are included as accounts payable and are paid, as the resources of the client become available to do so.

Accounts payable consist of the following balances:

	(in 000's) 2013	(in 000's) 2012
Accounts Payable to Third Parties	$ 1,982	$ 2,525
Administration Fees Payable to the Public Guardian and Trustee	708	788
	$ 2,690	$ 3,313

8. Common Fund Earnings Distributions

In April 2013, the Public Guardian and Trustee distributed the following interest, dividends and capital gains (losses) for the quarter ended March 31, 2013; interest $539,000 (2012 - $501,000), dividends $117,000 (2012 - $99,000), foreign dividends $546,000 (2012 - $72,000) and capital gain (loss) $1,196,000 (2012 – $963,000).

9. Related Party Transactions

Victims' Fund

The Public Guardian and Trustee holds and invests funds for the Victims' Fund established pursuant to *The Victims of Crime Act, 1995* . Earnings are allocated pursuant to sections 5, 6 and 7 of *The Public Guardian and Trustee Regulations,* but no fee pursuant to those regulations is charged.

The trust equity held on behalf of the Victims' Fund, the amount due to the Victims' Fund, and the Common Fund earnings distributed to the Victims' Fund is as follows:

	(in 000's) 2013	(in 000's) 2012
Accumulated Trust Equity	$ 951	$ 904
Common Fund earnings distributed During the year	$ 46	$ 46
Common Fund earnings to be Distributed in April	$ 18	$ 13

Other related party transactions are described elsewhere in these financial statements.

10. Budget

Budget amounts have not been disclosed as Public Guardian and Trustee's nature of operations does not provide for relevant budget amounts to be reasonably determined.

11. Comparative Figures

Certain comparative figures have been reclassified to conform to the current year's presentation.

Schedule 1

PUBLIC GUARDIAN AND TRUSTEE OF SASKATCHEWAN
ESTATES AND TRUSTS UNDER ADMINISTRATION
SCHEDULE OF COMMON FUND INVESTMENTS
FOR THE YEAR ENDED MARCH 31

(in 000's)

	2013		2012	
		% of Portfolio		% of Portfolio
Bonds and Debentures				
Government of Canada	$ 21,814	16%	$ 23,684	19%
Province of Saskatchewan	2,124	2%	1,362	1%
Other Provinces	19,445	14%	15,303	12%
Corporations	32,892	24%	28,690	23%
Total Bonds and Debentures *	76,275		69,039	
EAFE Pooled Equity Fund	19,176	14%	17,378	14%
Other Equities				
Canadian	19,424	14%	17,729	14%
Foreign	17,618	13%	16,890	14%
Short Term Investments *	2,083	2%	2,556	2%
TOTAL COMMON FUND SECURITIES	$ 134,576		$ 123,592	
Total Canadian Investments	$ 97,782	73%	$ 89,324	72%
Total Foreign Investments	36,794	27%	34,268	28%
TOTAL COMMON FUND SECURITIES	$ 134,576		$ 123,592	

* All Investments held are Canadian

Schedule 2

PUBLIC GUARDIAN AND TRUSTEE OF SASKATCHEWAN
ESTATES AND TRUSTS UNDER ADMINISTRATION
CLIENT TRUST ASSETS
FOR THE YEAR ENDED MARCH 31

(in 000's)

	2013	2012
Accounts Receivable	$ 2,923	$ 2,709
Commodities	12	171
Client Investments	14,080	13,296
Personal Property	2,595	2,580
Insurance	2,611	2,507
Real Estate	16,076	12,653
Total Client Trust Assets	$ 38,297	$ 33,916